

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**EATON VANCE MUNICIPALS TRUST,
EATON VANCE MUNICIPALS TRUST II,
EATON VANCE CORP., and JAMES
B. HAWKES, as TRUSTEE OF EATON
VANCE MUNICIPALS TRUST and EATON
VANCE MUNICIPALS TRUST II**

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 4:06CV117-P-B

**DELORES CONEGIE, by and through
her next friend, LAKEISHA CONEGIE**

DEFENDANT

ORDER

This cause is before the Court on the defendant's Motion to Dismiss or, in the Alternative, Motion to Stay [14]. The Court, having reviewed the motion, pleadings, correspondence and being otherwise fully advised in the premises, finds as follows, to-wit:

On September 5, 2006, Eaton Vance Municipals Trust, Eaton Vance Municipals Trust II, Eaton Vance Corp. and James B. Hawkes, as Trustee of Eaton Vance Municipals Trust and Eaton Vance Municipals Trust II (collectively the "Eaton Vance Parties") filed their Amended Complaint to Compel Arbitration. On October 3, 2006, Defendant Delores Conegie opposed arbitration and filed her Motion to Dismiss or, in the Alternative, Motion to Stay. Defendant Conegie sought dismissal on collateral estoppel grounds based on Judge Michael P. Mill's decision in a related case, *JP Morgan Chase & Co. v. Conegie ex rel Lee*, 2006 WL 1666686 (N.D. Miss 2006). At the time Defendant Conegie filed her motion, that case was on appeal to the Fifth Circuit Court of Appeals.

On May 17, 2007, the Court entered an order that denied Defendant Conegie's motion to dismiss and granted the alternative motion to stay. [17] The order also advised the parties to notify the Court within ten (10) days of the Fifth Circuit's decision in *JP Morgan Chase & Co. v. Conegie ex rel Lee*. The Court has been

timely advised of the Fifth Circuit's decision in *JP Morgan Chase & Co. v. Conegie ex rel Lee* by the Eaton Vance Parties.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the stay is lifted in this case. IT IS FURTHER ORDERED that Defendant Conegie must arbitrate all claims alleged in her Amended Complaint filed in the Circuit Court of Washington County, Mississippi, which bears cause number CI2004-193 and styled *Delores Conegie, by and through Deola Lee, Next Friend, Individually, and on behalf of for the use and benefit of Delores Conegie v. Magnolia Healthcare, Inc. et al.* (the "Underlying Lawsuit"). IT IS FURTHER ORDERED that the pending case before this Court will be held in abeyance pending a decision by the arbitrator in the Underlying Lawsuit.

SO ORDERED, this the 17th day of August, 2007.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE